

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

IN THE MATTER OF THE INDIANA)
UTILITY REGULATORY COMMISSION'S)
INVESTIGATION OF MATTERS)
RELATED TO THE FEDERAL)
COMMUNICATIONS COMMISSION'S)
REPORT AND ORDER AND ORDER ON)
REMAND AND FURTHER NOTICE OF)
PROPOSED RULEMAKING IN CC)
DOCKET NOS. 01-338, 96-98, AND 98-147)

JUN 14 2004

CAUSE NOS. 42500,
42500-S1 and 42500-S2

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Presiding Officers in this Cause make the following Entry:

These Causes, which derive from the Federal Communications Commission's ("FCC's") Triennial Review Order ("TRO"), as titled in the above caption, have been temporarily stayed and are currently scheduled for a status conference on July 8, 2004. These Causes are temporarily stayed, in part, because of a March 2, 2004 decision by the United States Court of Appeals for the D.C. Circuit to vacate portions of the FCC's TRO.¹ As part of its decision, the D.C. Circuit delayed the issuance of its mandate until May 2, 2004, which it later extended through June 15, 2004. On May 19, 2004, the United States Supreme Court granted an extension through June 30, 2004, of the deadline to seek certiorari with respect to the D.C. Circuit's decision. On June 4, 2004, the D.C. Circuit denied several requests to extend its stay beyond June 15, 2004. On June 9, 2004, the United States Solicitor General and the FCC announced they would not seek certiorari of the D.C. Circuit's decision.

Some CLECs, and others, may continue to pursue an appeal with the Supreme Court, as well as a continuation of the stay. It appears, however, that absent intervention by the Supreme Court to continue the stay of the D.C. Circuit's mandate, significant portions of the TRO will be vacated when the mandate becomes effective on June 16, 2004. Since these Causes have been the vehicle by which the Indiana Utility Regulatory Commission ("Commission") has pursued and reacted to the issuance of the TRO and the various judicial actions following, we find it appropriate to use this Entry to discuss the current and future status of matters related to the TRO in Indiana.

¹ *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).

We do not know if or the extent to which the effectiveness of the mandate will generate claims for relief to be filed with the Commission. But an obvious and immediate concern is how the effectiveness of the mandate will affect the interests of both telecommunication providers, that rely on ILECS' network elements in order to provide retail telephone service, and their customers. With these interests in mind, preservation of the status quo, at least in the short term, should help to avoid any unexpected or unnecessary disruption of wholesale or retail telephone services.

We are aware of one company, SBC Communications, Inc., which is the parent company of SBC Indiana, that has publicly announced its intention to maintain the status quo at least through the end of the year. In the June 9, 2004 edition of *Telecommunications Reports Daily*, it was reported that James D. Ellis, general counsel for SBC Communications, Inc., made the following statement: "To ensure continuity during this important transition to a rational, free-market-based approach to the industry, and help assure regulators, policy makers and consumers that there will be no marketplace disruption, SBC has committed to no unilateral increase in mass-market UNE-P prices, as well as loop and high-capacity transport between SBC's offices as a result of this ruling, at least through the end of this year."

We are also aware of a June 10, 2004 Accessible Letter sent to CLECs by a number of SBC companies, including SBC Indiana, in response to the impending effectiveness of the D.C. Circuit's mandate, wherein it states:

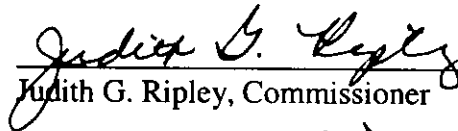
... SBC has committed not to unilaterally increase the pricing for mass market UNE-P, or USTA II-affected high-capacity loops, or USTA II-affected high-capacity dedicated transport between SBC's offices through at least the remainder of 2004. This commitment means that SBC will continue providing to our wholesale customers mass-market UNE-P, DS1 and DS3 loops, and DS1 and DS3 dedicated transport between SBC central offices, and will not unilaterally increase the applicable state-approved prices for these facilities through December 31, 2004. Of course, those TELRIC rates are otherwise subject to change in accordance with the provisions of each CLEC's interconnection agreement.

There will continue to be issues to be sorted out, both at the state and federal levels, with respect to the purposes of the federal Telecommunications Act of 1996 and efforts, like the TRO, to further implement those purposes. However, until the relevant issues can be sorted out, maintaining stability in the marketplace is essential. To that end, we find that the ILEC parties to these Causes²: SBC Indiana, Sprint and Verizon should, until at least the end of this year, continue to honor their existing interconnection agreements, including any applicable

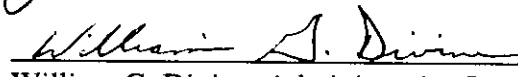
² The ILECs that are parties to these Causes are: Indiana Bell Telephone Company, Incorporated, d/b/a SBC Indiana ("SBC Indiana"); United Telephone Company of Indiana, Inc. d/b/a Sprint and Sprint Communications Co. L.P. (collectively "Sprint"); and Verizon North Inc. and Contel of the South, Inc. d/b/a Verizon North Systems (collectively "Verizon").

amendments approved by the Commission, and should continue to provide unbundled access to network elements at prices approved by the Commission.

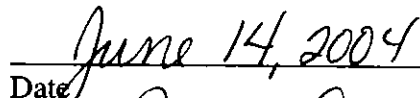
IT IS SO ORDERED.



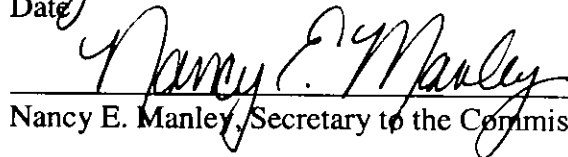
Judith G. Ripley, Commissioner



William G. Divine, Administrative Law Judge



Date



Nancy E. Manley, Secretary to the Commission